

AMENDED IN ASSEMBLY JANUARY 10, 2012

AMENDED IN ASSEMBLY MAY 19, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 53

Introduced by Assembly Member Solorio
(Coauthors: Assembly Members Davis, Furutani, Mendoza, and
Portantino)
(Coauthor: Senator Price)

December 6, 2010

An act to add Article 10.2 (commencing with Section 927) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurers.

LEGISLATIVE COUNSEL'S DIGEST

AB 53, as amended, Solorio. Insurers: procurement contracts: minority, women, and disabled veteran business enterprises.

Existing law requires each admitted insurer to provide information to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California.

This bill would require that each admitted insurer with premiums written equal to or in excess of \$100,000,000—to submit to the commissioner, by July 1, 2012, a report on its minority, women, and disabled-veteran ~~veteran-owned business enterprises~~ procurement efforts, as specified. ~~Failure~~ *The bill would provide that the failure to file the*

report; by July 1, 2012, ~~would subject~~ *subjects* the admitted insurer to civil penalties to be fixed by the commissioner, as provided.

The bill would require, among other things, that commencing July 1, 2014, each eligible admitted insurer biennially update its supplier diversity report and submit a new report, containing additional elements, to the commissioner no later than July 1.

The bill would require that, by July 31, 2012, the commissioner establish and maintain a link on the department's Internet Web site that provides public access to the contents of each admitted insurer's report on minority, women, and disabled veteran-owned business procurement efforts.

~~The bill would require that a supplier firm that provides a materially false statement regarding its status as a minority, women, or disabled veteran business enterprise be barred for up to 3 years from being considered as one of those enterprises.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10.2 (commencing with Section 927) is
2 added to Chapter 1 of Part 2 of Division 1 of the Insurance Code,
3 to read:

4
5 Article 10.2. ~~Women, Minority, Women, and Disabled Veteran~~
6 Business Enterprises
7

8 927. The Legislature finds and declares all of the following:

9 (a) It is in the state's interest to encourage competitive business
10 opportunities for all of its people. Insurers are uniquely positioned
11 to build relationships within the communities they serve through
12 the development, inclusion, and utilization of certified minority,
13 women, and disabled veteran-owned business enterprises whenever
14 possible. National companies are able to leverage buying power
15 to save costs to the benefit of policyholders.

16 (b) By providing that each major insurer submit to the Insurance
17 Commissioner a report ~~and plan containing~~ *explaining* the insurer's
18 supplier diversity statement and expressing its goals regarding
19 certified minority, women, and disabled veteran-owned business
20 enterprises, and the commissioner placing that information on the

1 department's Internet Web site, that online resource will help
2 facilitate these supplier relationships.

3 927.1. For the purposes of this article, the following definitions
4 apply:

5 (a) "Control" means to exercise the power to make policy
6 decisions.

7 (b) "Disabled veteran business enterprise" has the same meaning
8 as defined in subparagraph (A) of paragraph (7) of subdivision (b)
9 of Section 999 of the Military and Veterans Code, or any successor
10 provision. Disabled veterans business enterprise certification
11 eligibility requirements shall be consistent with those imposed by
12 the Department of General Services, and this section applies only
13 to those disabled veteran business enterprises certified by the
14 Department of General Services.

15 (c) "Minority business enterprise" means a business enterprise,
16 physically located in the United States or its trust territories, that
17 is at least 51 percent owned by a minority group or groups, or, in
18 the case of any publicly owned business, at least 51 percent of the
19 stock of which is owned by one or more minority groups, and
20 whose management and daily business operations are controlled
21 by one or more of those individuals. "Minority" includes African
22 Americans, Hispanic Americans, Native Americans, and Asian
23 Pacific Americans who provide proof of United States citizenship
24 or legal resident alien status.

25 (d) "Operate" means to be actively involved in the day-to-day
26 management of the enterprise and not to be merely officers or
27 directors.

28 (e) "Women business enterprise" means a business enterprise
29 physically located in the United States or its trust territories, that
30 is at least 51 percent owned by a woman or women, or, in the case
31 of any ~~publically~~ publicly owned business at least 51 percent of
32 the stock of which is owned by one or more women, and whose
33 management and daily business operations are controlled by one
34 or more of those individuals, who provide proof of United States
35 citizenship or legal resident alien status.

36 927.2. (a) (1) By July 1, 2012, each admitted insurer, with
37 premiums written of one hundred million dollars (\$100,000,000)
38 or more, shall submit a report to the commissioner on its minority,
39 women, and disabled veteran-owned business procurement efforts
40 *during the reporting period.*

1 (2) The report shall include all of the following:

2 (A) The insurer's supplier diversity policy statement.

3 (B) The insurer's outreach and communications to minority,
4 women, and disabled veteran business enterprises, including:

5 (i) How the insurer encourages and seeks out minority, women,
6 and disabled veteran owned business enterprises to become
7 potential suppliers.

8 (ii) How the insurer encourages its employees involved in
9 procurement to seek out minority, women, and disabled
10 veteran-owned business enterprises to become potential suppliers.

11 (iii) How the insurer conducts outreach and communication to
12 minority, women, and disabled veteran business enterprises.

13 (iv) How the insurer supports organizations that promote or
14 certify minority, women, and disabled veteran-owned business
15 enterprises.

16 (v) Information regarding appropriate contacts at the insurer for
17 interested business enterprises.

18 (C) The report shall include information about which
19 procurements are made from minority, women, and disabled
20 veteran business enterprises with at least a majority of the
21 enterprise's workforce in California, to the extent that information
22 is readily accessible.

23 (b) Nothing in this section shall be construed to require quotas,
24 set-asides, or preferences in an admitted insurer's procurement of
25 goods or services, nor does this section apply to insurer producer
26 or licensee contracts. Admitted insurers retain the authority to use
27 business judgment to select the supplier for a particular contract.

28 (c) Nothing in this section shall preclude an admitted insurer
29 that is a member of an insurance holding company system, as
30 defined in Article 4.7 (commencing with Section 1215) of Chapter
31 2, from complying with paragraphs (1) and (2) of subdivision (a)
32 through a single filing on behalf of the entire group of affiliated
33 companies.

34 (d) Failure to file the report required by subdivision (a), by July
35 1, 2012, shall subject the admitted insurer to a civil penalty to be
36 fixed by the commissioner, not to exceed five thousand dollars
37 (\$5,000), or if the act or practice was willful, a civil penalty not
38 to exceed ten thousand dollars (\$10,000). If the insurer has failed
39 to file the report within 30 days of a written notice by the
40 commissioner, the commissioner may find that the failure to file

1 the report was willful and increase the civil penalty to an amount
2 not to exceed ten thousand dollars (\$10,000). The penalty imposed
3 by this section is appealable by means of any remedy provided by
4 Section 12940, or by Chapter 5 (commencing with Section 11500)
5 of Part 1 of Division 3 of Title 2 of the Government Code.

6 (e) ~~(1)~~—Commencing July 1, 2014, each admitted insurer
7 specified in subdivision (a) shall biennially update its supplier
8 diversity report and submit the new report to the commissioner no
9 later than July 1.

10 ~~(2) By July 1, 2014, each insurer specified in subdivision (a)~~
11 ~~shall, as part of the supplier diversity report, submit to the~~
12 ~~commissioner a plan that includes the goals and outreach efforts~~
13 ~~that are planned in connection with procurement from minority,~~
14 ~~women, and disabled veteran business enterprises during the~~
15 ~~current and following calendar year. The plan shall also include~~
16 ~~all of the elements contained in subdivision (a).~~

17 (f) By July 31, 2012, the commissioner shall establish and
18 maintain a link on the department's Internet Web site that provides
19 public access to the contents of each admitted insurer's report on
20 minority, women, and disabled veteran-owned business
21 procurement efforts.

22 ~~(g) Each insurer required to submit a report or plan pursuant to~~
23 ~~this section may request verification of the status of any supplier~~
24 ~~that asserts it qualifies as a women business enterprise, a minority~~
25 ~~business enterprise, or a disabled veteran business enterprise from~~
26 ~~the Public Utilities Commission, the Department of General~~
27 ~~Services, the Department of Insurance, or any entity selected or~~
28 ~~recognized by these agencies for the purpose of verifying the~~
29 ~~accuracy of that assertion.~~

30 ~~(h) (1) In the event that the report or plan includes a goal to~~
31 ~~increase procurement from minority, women, or disabled veteran~~
32 ~~business enterprises, then the procurement attributed to a minority,~~
33 ~~women, or disabled veteran business enterprise, for statistical~~
34 ~~purposes, shall be one that is verified as one of those enterprises~~
35 ~~by the primary entity selected by the Public Utilities Commission,~~
36 ~~by the Department of General Services, or by the Department of~~
37 ~~Insurance for this purpose, or by another entity or organization~~
38 ~~that is recognized by any of these agencies to conduct supplier~~
39 ~~verifications. Insurers are encouraged to utilize these verification~~
40 ~~resources.~~

1 ~~(2) This subdivision does not require any state agency to conduct~~
2 ~~these verifications, contract with any entity to conduct these~~
3 ~~verifications, or to recognize any other entity or organization for~~
4 ~~this purpose.~~

5 ~~(i) A supplier firm that provides a materially false statement~~
6 ~~regarding its status as a minority, women, or disabled veteran~~
7 ~~business enterprise shall be barred for up to 3 years from being~~
8 ~~counted as one of those enterprises for purposes of this section.~~

9 927.3. In order to facilitate the participation of ~~women-owned~~
10 ~~businesses~~, minority-owned businesses, *women-owned businesses*,
11 disabled veteran-owned businesses, and small businesses in
12 contract procurement, any insurer subject to this article may
13 consider the following measures to include those businesses in all
14 phases of their contracting:

15 (a) Timely or progressive payments to those businesses.

16 (b) The provision of assistance to those businesses by securing
17 contract payments to those businesses with letters of credit,
18 negotiable securities, or other financing arrangements or measures.